

House File 2496 - Introduced

HOUSE FILE 2496

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 701)

A BILL FOR

- 1 An Act relating to the procedural requirements for placing an
- 2 officer's name on a Brady-Giglio list, and for a prosecuting
- 3 agency disclosing exculpatory evidence.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 80F.1, subsection 1, Code 2022, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *0a.* "*Brady-Giglio list*" means a list
4 compiled by a prosecuting agency containing the names
5 and details of officers who have sustained incidents of
6 untruthfulness, criminal convictions, candor issues, or some
7 other type of issue which places the officer's credibility into
8 question.

9 NEW PARAGRAPH. *0f.* "*Prosecuting agency*" means the attorney
10 general, an assistant attorney general, the county attorney,
11 an assistant county attorney, a special prosecutor, a city
12 attorney, or an assistant city attorney.

13 Sec. 2. Section 80F.1, subsection 23, paragraph a, Code
14 2022, is amended to read as follows:

15 *a.* An officer shall not be discharged, disciplined, or
16 threatened with discharge or discipline by a state, county, or
17 municipal law enforcement agency solely due to a prosecuting
18 attorney agency making a determination or disclosure that
19 exculpatory evidence exists concerning the officer.

20 Sec. 3. Section 80F.1, subsection 23, paragraph c, Code
21 2022, is amended by striking the paragraph.

22 Sec. 4. Section 80F.1, Code 2022, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 24. *a.* A prosecuting agency that maintains
25 a Brady-Giglio list shall adopt a policy that, at a minimum,
26 includes all of the following:

27 (1) The criteria used by the prosecuting agency to place an
28 officer's name on a Brady-Giglio list.

29 (2) The officer's right to receive written notice at least
30 ten days before the prosecuting agency considers placing the
31 officer's name on a Brady-Giglio list, and the officer's
32 right to provide input to the prosecuting agency before
33 the prosecuting agency makes a determination of whether the
34 officer's name should be placed on a Brady-Giglio list.

35 (3) The duty of the prosecuting agency to provide notice of

1 the prosecuting agency's decision regarding placement of the
2 officer's name on a Brady-Giglio list.

3 (4) The officer's right to make a request for
4 reconsideration of the prosecuting agency's determination to
5 include the officer's name on a Brady-Giglio list and to submit
6 supporting and corroborating documents and evidence in support
7 of the officer's request for reconsideration.

8 (5) The applicable time frame and procedures for notifying
9 the officer of the prosecuting agency's final decision on an
10 officer's request for reconsideration.

11 (6) The officer's right to receive written notice at least
12 ten days before the prosecuting agency discloses exculpatory
13 evidence and the officer's right to request an in camera review
14 before the exculpatory evidence may be disclosed.

15 b. At least ten days before a prosecuting agency considers
16 placing an officer's name on a Brady-Giglio list, the
17 prosecuting agency shall send a written notice by mail or email
18 to the officer's current or last known employment address.
19 Upon receipt of the notice, and if the officer's contact
20 information is known, the officer's current or last known
21 employer shall provide the written notice to the officer.
22 The written notice shall include, at a minimum, all of the
23 following:

24 (1) A notice that the officer's name may be placed on a
25 Brady-Giglio list.

26 (2) The officer's right to request documents, records, and
27 any other evidence in the possession of the prosecuting agency
28 relevant to the determination of whether the officer's name
29 should be placed on a Brady-Giglio list from the prosecuting
30 agency.

31 (3) The officer's right to provide input to the prosecuting
32 agency prior to the prosecuting agency's determination of
33 whether the officer's name should be placed on a Brady-Giglio
34 list.

35 (4) The prosecuting agency's procedural requirements for

1 an officer to provide input to the prosecuting agency prior to
2 the prosecuting agency's determination of whether the officer's
3 name should be placed on a Brady-Giglio list.

4 *c.* If the prosecuting agency makes a determination to place
5 the officer's name on a Brady-Giglio list, the prosecuting
6 agency shall send a written notice by mail or email to the
7 officer's current or last known employment address. Upon
8 receipt of the notice, and if the officer's contact information
9 is known, the officer's current or last known employer shall
10 provide the written notice to the officer. The written notice
11 shall include, at a minimum, all of the following:

12 (1) The officer's right to make a request to reconsider
13 the allegations and the placement of the officer's name on a
14 Brady-Giglio list.

15 (2) The prosecuting agency's procedural requirements
16 for submitting a written request for reconsideration of the
17 prosecuting agency's determination to place the officer's name
18 on a Brady-Giglio list including the method and time frame for
19 submitting the request for reconsideration and any supporting
20 and corroborating documents and evidence from any pertinent
21 sources.

22 (3) A statement that, if the officer intends to make a
23 request for reconsideration, the officer must submit the
24 written request for reconsideration to the prosecuting agency
25 within ten business days after receiving the notice.

26 *d.* If an officer submits a request for reconsideration
27 pursuant to this subsection and the officer's request
28 for reconsideration is approved by the prosecuting agency
29 on its merits, the officer's name shall be removed from
30 the Brady-Giglio list. If the officer's request for
31 reconsideration is denied by the prosecuting agency, the
32 officer's name shall remain on the Brady-Giglio list. If
33 the officer does not submit a request for reconsideration or
34 fails to comply with the requirements for submitting a request
35 for reconsideration, the officer's name shall remain on the

1 Brady-Gigliio list.

2 e. An officer whose name was placed on a Brady-Giglio list
3 prior to the effective date of this Act shall have the right to
4 request reconsideration as follows:

(1) A prosecuting agency shall notify the officer, within ninety days of the effective date of this Act, and provide the officer with the information required under paragraph "c".

8 (2) Upon receipt of a notification from a prosecuting agency
9 pursuant to subparagraph (1), an officer shall have thirty days
10 to request reconsideration.

11 f. A prosecuting agency shall provide an officer with
12 written notice by mail or email before the prosecuting agency
13 discloses exculpatory evidence. Upon receiving notice, the
14 officer shall have ten days to request an in camera review by
15 the court before the exculpatory evidence may be disclosed.
16 The right to request an in camera review may be waived by the
17 officer.

18 g. This subsection does not limit the duty of a prosecuting
19 agency to produce Brady-Giglio discovery evidence in all cases
20 as required by the Constitution of the United States, the
21 Constitution of the State of Iowa, and the rules of criminal
22 procedure, including after the initial placement of the
23 officer's name on a Brady-Giglio list, while the decision or a
24 request for reconsideration is still under consideration.

25 h. This subsection does not limit or restrict a prosecuting
26 agency's ability to remove an officer's name from a
27 Brady-Giglio list if, upon receipt of additional supporting and
28 corroborating information or a change in factual circumstances
29 at any time, the prosecuting agency determines that the
30 officer's name no longer requires placement on a Brady-Giglio
31 list.

32 *i.* This subsection is repealed July 1, 2023.

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill relates to the procedural requirements for placing
2 an officer's name on a Brady-Giglio list, and for a prosecuting
3 agency disclosing exculpatory evidence.

4 The bill provides that a prosecuting agency that maintains
5 a Brady-Giglio list (list) shall adopt a policy that, at a
6 minimum, includes all of the following: the criteria used by
7 the prosecuting agency to place an officer's name on a list,
8 the officer's right to receive written notice at least 10 days
9 before the prosecuting agency considers placing the officer's
10 name on a list and the officer's right to provide input to
11 the prosecuting agency before the prosecuting agency makes a
12 determination of whether the officer's name should be placed on
13 a list, the duty of the prosecuting agency to provide notice
14 of the prosecuting agency's decision regarding placement of
15 the officer's name on a list, the officer's right to make a
16 request for reconsideration of the determination and to submit
17 supporting and corroborating documents and evidence in support
18 of the officer's request for reconsideration, the applicable
19 time frame and procedures for notifying the officer of the
20 prosecuting agency's final decision on the officer's request
21 for reconsideration, and the officer's right to receive at
22 least 10 days' notice before the prosecuting agency discloses
23 exculpatory evidence and the right to request an in camera
24 review before disclosure.

25 The bill provides that at least 10 days before a prosecuting
26 agency considers placing an officer's name on a list, the
27 prosecuting agency shall send a written notice by mail or email
28 to the officer's current or last known employment address.
29 If the officer's contact information is known, the officer's
30 current or last known employer shall provide the written
31 notice to the officer. The written notice shall include, at a
32 minimum, all of the following: a notice of possible placement
33 on a list; the officer's right to request relevant materials
34 from the prosecuting agency; the officer's right to provide
35 input to the prosecuting agency; and the prosecuting agency's

1 procedural requirements for an officer to provide input.

2 The bill provides that if the prosecuting agency makes
3 a determination to place the officer's name on a list, the
4 prosecuting agency shall send a written notice by mail or
5 email to the officer's current or last known employment
6 address. If the officer's contact information is known, the
7 officer's current or last known employer shall provide the
8 written notice to the officer. The written notice shall
9 include, at a minimum, all of the following: the officer's
10 right to make a request to reconsider the allegations and
11 the officer's placement on a list, the prosecuting agency's
12 procedural requirements for submitting a written request
13 for reconsideration including the method and time frame for
14 submitting the officer's request for reconsideration and any
15 supporting and corroborating documents and evidence from
16 any pertinent sources, and a statement that if the officer
17 intends to make a request for reconsideration of the officer's
18 placement on a list, the officer must submit the written
19 request for reconsideration to the prosecuting agency within 10
20 business days after receiving the notice.

21 The bill provides that if an officer submits a request for
22 reconsideration and the officer's request for reconsideration
23 is approved by the prosecuting agency on its merits, the
24 officer's name shall be removed from the list. If the
25 officer's request for reconsideration is denied by the
26 prosecuting agency, the officer's name shall remain on
27 the list. If an officer does not submit a request for
28 reconsideration or fails to comply with the requirements for
29 submitting a request for reconsideration, the officer's name
30 shall remain on the list.

31 The bill provides that an officer whose name was placed on a
32 list prior to the effective date of the bill has the right to
33 request reconsideration as follows: a prosecuting agency shall
34 notify an officer whose name was placed on a list prior to the
35 effective date of the bill, within 90 days of the effective

1 date of the bill, and provide the officer with the information
2 required in the bill; and upon receipt of notification from a
3 prosecuting agency, an officer receiving notice shall have 30
4 days to request reconsideration.

5 The bill provides that a prosecuting agency shall provide
6 an officer with written notice before disclosing exculpatory
7 evidence. The officer shall have 10 days upon receipt of
8 notice to request an in camera review by the court prior to
9 disclosure.

10 The bill does not limit the duty of a prosecuting agency
11 to produce Brady-Giglio discovery evidence in all cases
12 as required by the Constitution of the United States,
13 the Constitution of the State of Iowa, and the Iowa rules
14 of criminal procedure, and does not limit or restrict a
15 prosecuting agency's ability to remove an officer's name
16 from a list if, upon receipt of additional supporting and
17 corroborating information or a change in factual circumstances
18 at any time, the prosecuting agency determines that the
19 officer's name no longer requires placement on a list.

20 The bill defines "Brady-Giglio list" as a list compiled
21 by a prosecuting agency containing the names and details of
22 officers who have sustained incidents of untruthfulness,
23 criminal convictions, candor issues, or some other type of
24 issue which places the officer's credibility into question.
25 "Prosecuting agency" is defined as the attorney general, an
26 assistant attorney general, the county attorney, an assistant
27 county attorney, a special prosecutor, a city attorney, or an
28 assistant city attorney.

29 The section of the bill relating to the procedural
30 requirements for placing an officer's name on a list is
31 repealed July 1, 2023.

32 The bill strikes the repeal of Code section 80F.1(23)
33 relating to the prohibition against the discharge, discipline,
34 or threatened discharge of an officer solely due to a
35 prosecuting attorney making a determination or disclosure that

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1 exculpatory evidence exists concerning the officer.